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Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Customs Court

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DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

(T.D. 77-1)

Customs Delegation Order No. 1 (Revision 1) amended

Performance of functions in the United States Customs Service

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 16, 1976.

1. By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, Customs Delegation Order No. 1 (Revision 1) (T.D. 69-126, 34 FR 8208) is hereby amended as follows:

Paragraph A. is amended to read as follows:

A. ASSISTANT COMMISSIONER OF CUSTOMS, OFFICE OF REGULATIONS AND RULINGS:

Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended, (*supra*), decisions denying or approving requests for information under 5 U.S.C. 552, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division, and the Director, Carriers, Drawback and Bonds Division.

* * * * *

2. This order shall take effect upon publication in the FEDERAL REGISTER. (096214)
(ADM-9-03)

VERNON D. ACREE,
Commissioner of Customs.

Published in the FEDERAL REGISTER December 22, 1976 (41 FR 55764)]

(T.D. 77-2)

*Presidential Proclamation 4477—Import Limits on certain
articles of alloy tool steel*

Title II of Public Law 93-618 and Presidential Proclamation 4477 amending
Presidential Proclamation 4445

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 20, 1976.

There is published below Presidential Proclamation 4477, issued on November 16, 1976, which amends Presidential Proclamation 4445 and establishes a separate quota category for bearing steel in Subpart A, Part 2 of the Appendix of the Tariff Schedules of the United States. The following Proclamation was published in the FEDERAL REGISTER on November 18, 1976. (41 FR 50969)

(CLA-2:R:CV)

DONALD W. LEWIS,
for LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

Title 3—The President

Proclamation 4477

November 16, 1976

Modification of Temporary Quantitative Limitations on the Importation into the
United States of Certain Articles of Alloy Tool Steel

By the President of the United States

A Proclamation

1. On January 16, 1976, the United States International Trade Commission (USITC) reported to the President the results of its investigation under section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)) (the Trade Act). The USITC determined that certain articles of stainless steel or alloy tool steel provided for in items 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08 of the Tariff Schedules of the United States (TSUS) were being imported

into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry or industries producing articles like or directly competitive with the imported articles.

2. An orderly marketing agreement was concluded on June 11, 1976, between the Government of the United States of America and the Government of Japan, limiting the export from Japan and the import into the United States of certain articles of stainless steel (except razor blade steel) or alloy tool steel provided for in items 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08 of the TSUS.

3. On June 11, 1976, by Proclamation 4445, I proclaimed, pursuant to the Constitution and the statutes of the United States (including section 203 of the Trade Act), the imposition of temporary quantitative limitations on the importation into the United States of certain articles of stainless steel or alloy tool steel. These limitations were effective as to those articles entered, or withdrawn from warehouse, for consumption on or after June 14, 1976, and are to continue for a period of three years from that date unless earlier modified, or terminated.

4. Alloy "tool steel", as that term is defined in statistical headnote 1(a) of subpart B, part 2, schedule 6 of the TSUS, was included in the finding of the USITC. Steel, so defined, was made subject to the quantitative limitations established by Proclamation 4445, in item 923.24. Subsequent to the issuance of that proclamation I have ascertained that certain alloy tool steel having a chemical composition within the specifications of new headnote 2(a)(iv) proclaimed in paragraph A(iii) below had not either consistently or substantially been historically reported in import statistics as alloy tool steel prior to June 14, 1976. Therefore, the statistics used as a basis for establishing the quantitative limitations for item 923.24 are inaccurate, and the quota quantity provided for that category is substantially understated.

5. Section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)) requires that any quantitative restriction proclaimed pursuant to section 203 subsection (a) or (c), and any marketing agreement negotiated pursuant to subsection (a), shall "permit the importation of a quantity or value of the article which is not less than the quantity

or value of such article imported into the United States during the most recent period which the President determines is representative of imports of such article". Based on data that was not available on June 11, 1976, I have determined that the inclusion of the steel described in new headnote 2(a)(iv) proclaimed below in the quantitative limitation for item 923.24 would result in the importation of a quantity or value of specialty steel into the United States which is less than that quantity or value imported into the United States during the most recent period determined by me in recital 6 of the Proclamation 4445 to be representative of imports of alloy tool steel.

6. In order to provide appropriate quantitative limitations in accordance with the statutory requirements referred to in recital 5 above, I have determined to delete item 923.24 and to include alloy tool steel formerly provided for in item 923.24 separately in new items 923.25 and 923.26, and to proclaim separate quantitative limitations for imports included in each new item.

THEREFORE, I, GERALD R. FORD, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States of America, including section 203 of the Trade Act (19 U.S.C. 2253), do hereby proclaim, until the President otherwise proclaims or until otherwise superseded by law that:

A. Subpart A, part 2, of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified as follows:

(i) by deleting "923.24" from the first sentence of headnote 2 and substituting "923.26" in lieu thereof.

(ii) by deleting "923.24" from headnote 2(a)(iii) and substituting "923.25 and 923.26" in lieu thereof.

(iii) by renumbering paragraph (a)(iv) of headnote 2 thereof (a)(v) and inserting the following new paragraph (a)(iv) in numerical sequence:

"(iv) The alloy tool steel provided for in item 923.25 is limited to alloy tool steel of the types provided for in items 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08, which contain, in

addition to iron, each of the following elements by weight in the amounts specified:

carbon: not less than 0.95 nor more than 1.13 percent;
 manganese: not less than 0.22 nor more than 0.48 percent;
 sulfur: none, or not more than 0.03 percent;
 phosphorus: none, or not more than 0.03 percent;
 silicon: not less than 0.18 nor more than 0.37 percent;
 chromium: not less than 1.25 nor more than 1.65 percent;
 nickel: none, or not more than 0.28 percent;
 copper: none, or not more than 0.38 percent;
 molybdenum: none, or not more than 0.09 percent.

(iv) by deleting "923.24" from headnote 2(b) and substituting "923.26" in lieu thereof.

(v) (a) by adding the following sentence after the second sentence to headnote 2(f):

"With respect to item 923.25 there is no limitation specified for the increase permitted in any quota quantity but any establishment or increase in a base limit for item 923.25 must be accompanied by an equal tonnage reduction in the quota quantity from Japan for one or more of the other items during the same restraint period."

(b) by deleting "923.24" from the tabulation in headnote 2(f) and substituting "923.26" in lieu thereof; and

(c) by inserting the following in the tabulation to headnote 2(f) in numerical sequence:

Restraint Periods

Item	June 14, 1976- June 13, 1977		June 14, 1977- June 13, 1978		June 14, 1978- June 13, 1979	
	Base limit (1,000 s. tons)	Maximum increase (percent)	Base limit (1,000 s. tons)	Maximum increase (percent)	Base limit (1,000 s. tons)	Maximum increase (percent)
923. 25	19. 8	No limita- tion	22. 0	No limita- tion	24. 3	No limita- tion

(vi) by deleting item 923.24 and substituting in lieu thereof the following:

Item	Articles	Quota Quantity (in short tons)		
		Effective on or after—		
		June 14, 1976	June 14, 1977	June 14, 1978
	Alloy tool steel of the types provided for in items 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08:			
923. 25	Alloy tool steel within the specifications of headnote 2(a) (iv):			
	Japan.....	19, 800	22, 000	24, 300
	European Economic Community.....	3, 500	3, 500	3, 500
	Canada.....	65	65	65
	Sweden.....	7, 000	8, 000	8, 000
	Other:			
	Countries entitled to the rate of duty in rates of duty column numbered 1 (total)...	50	50	50
	Other (total).....	None	None	None
923. 26	Other (see headnote 2(a) (iii)):			
	Japan.....	3, 500	3, 700	3, 800
	European Economic Community.....	3, 400	3, 500	3, 600
	Canada.....	1, 900	2, 000	2, 000
	Sweden.....	8, 500	8, 600	8, 700
	Other:			
	Countries entitled to the rate of duty in rates of duty column numbered 1 (total)...	3, 600	3, 700	3, 800
	Other (total).....	6	6	6

B. The modifications of subpart A, part 2 of the Appendix to the TSUS, made by this proclamation shall be effective on the third day after the date of publication of this proclamation in the FEDERAL REGISTER as to articles entered, or withdrawn from warehouse, for consumption on and after June 14, 1976.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundred and first.

GERALD R. FORD.

(T.D. 77-3)

Special Tonnage Tax and Light Money—Customs Regulations amended

Amendment of the listing of countries entitled to suspension and discontinuance of foreign discriminating duties of tonnage and impost with respect to vessels and certain imports; section 4.22 of the Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 4 - VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.22 of the Customs Regulations (19 CFR 4.22) lists the nations whose vessels are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. On October 7, 1976, the Department of State requested the Department of the Treasury to remove the Republic of Viet-Nam and Palestine from the list. On October 15, 1976, the Department of State requested the Department of the Treasury to change the listing for "China" to "Republic of China".

Accordingly, to reflect these changes, the list set forth in section 4.22 of the Customs Regulations is amended by deleting "Palestine" and "Viet-Nam, Republic of" therefrom and by substituting "China, Republic of" for "China".

(R.S. 251, as amended, R.S. 4219, as amended, R.S. 4225, as amended, R.S. 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141)).

Since these amendments reflect either the change in name of a country currently on the list or the deletion of names of countries in conformity with the law allowing an exemption only as long as reciprocity is possible, notice and public procedure is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER. (096141)

(ADM-9-03)

Dated December 16, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER December 23, 1976 (41 FR 55872)]

(T.D. 77-4)

Ports of Entry—Customs Regulations—amended

Section 1.2(c), Customs Regulations, amended to establish Grand Rapids, Michigan, as a Customs port of entry

DEPARTMENT OF THE TREASURY,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 1 — GENERAL PROVISIONS

On October 14, 1976, there was published in the FEDERAL REGISTER (41 FR 45015) a notice of a proposal to establish a Customs port of entry at Grand Rapids, Michigan, in the Detroit, Michigan, Customs district (Region IX). No comments were received in response to this proposal.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 12 (41 FR 47970), Grand Rapids, Michigan, is hereby designated as a Customs port of entry in the Detroit, Michigan, Customs district (Region IX).

The geographical limits of Grand Rapids, Michigan, port of entry shall include all that area beginning at the northwesternmost corner of the City of Walker, Michigan, and extending in an easterly direction along the northern boundaries of the City of Walker, the City of Grand Rapids, Grand Rapids Township, and Ada Township, all in Michigan, to the northeasternmost point of Ada Township, then proceeding in a southerly direction along the eastern boundaries of Ada Township, Cascade Township, and Caledonia Township, Michi-

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gan, to 84th Street, then proceeding in a westerly direction along 84th Street to its intersection with the boundary line between Kent County and Ottawa County, Michigan, then proceeding in a northerly direction along the boundary line between Kent County and Ottawa County, Michigan, to the northwesternmost corner of the City of Walker, Michigan.

To reflect this change, the table in section 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is amended by inserting "Grand Rapids, Michigan (T.D. 77-4)" directly below "Battle Creek, Michigan," in the column headed "Ports of entry" in the Detroit, Michigan, Customs district (Region IX).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2))

Effective date. This amendment shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

(ADM-9-03)

Dated December 16, 1976

JERRY THOMAS,
Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER December 23, 1976 (41 FR 55871)]

(T.D. 77-5)

Ports of Entry—Customs Regulations amended

Section 1.2(c), Customs Regulations, amended to extend the port limits of Erie, Pennsylvania

DEPARTMENT OF THE TREASURY,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 1 — GENERAL PROVISIONS

On September 14, 1976, a notice of proposal to extend the port limits of Erie, Pennsylvania, in the Cleveland, Ohio, Customs district (Region IX) was published in the FEDERAL REGISTER (41 FR 39030). No comments were received regarding the proposal.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949-1953

the first of these is the fact that the system is not self-sufficient. It is necessary to import a large quantity of raw materials and to export a large quantity of finished goods. This is a disadvantage of the system.

The second disadvantage is that the system is not very flexible. It is difficult to change the system in order to meet changing market conditions. This is a disadvantage of the system.

The third disadvantage is that the system is not very efficient. It is difficult to get the best results from the system. This is a disadvantage of the system.

The fourth disadvantage is that the system is not very secure. It is difficult to protect the system from external attacks. This is a disadvantage of the system.

The fifth disadvantage is that the system is not very reliable. It is difficult to get the same results from the system every time. This is a disadvantage of the system.

The sixth disadvantage is that the system is not very adaptable. It is difficult to change the system in order to meet changing market conditions. This is a disadvantage of the system.

The seventh disadvantage is that the system is not very flexible. It is difficult to change the system in order to meet changing market conditions. This is a disadvantage of the system.

The eighth disadvantage is that the system is not very efficient. It is difficult to get the best results from the system. This is a disadvantage of the system.

The ninth disadvantage is that the system is not very secure. It is difficult to protect the system from external attacks. This is a disadvantage of the system.

The tenth disadvantage is that the system is not very reliable. It is difficult to get the same results from the system every time. This is a disadvantage of the system.

Comp., Ch. II), and pursuant to the authority provided by Treasury Department Order No. 190, Rev. 12 (41 FR 47970), the port limits of Erie, Pennsylvania, in the Cleveland, Ohio, Customs district (Region IX), are extended to include all the territory within the corporate limits of the City of Erie and all of Mill Creek Township in Erie County, Pennsylvania.

To reflect this change, the table in section 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is amended by adding the language "(including territory described in T.D. 77-5)." directly after "Erie, Pa." in the column headed "Ports of entry" in the Cleveland, Ohio, Customs district (Region IX).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2))

Effective date. This amount shall become effective 30 days after the date of publication in the FEDERAL REGISTER. (096173)

(ADM-9-03)

Dated December 16, 1976

JERRY THOMAS,
Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER December 23, 1976 (41 FR 55872)]

(T.D. 77-6)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 17, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (19 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and other concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:

November 15, 1976.....	\$0. 2094
November 16, 1976.....	0. 2090
November 17, 1976.....	0. 2100
November 18, 1976.....	0. 2100
November 19, 1976.....	0. 2097

Iran rial:

November 15-19, 1976-----	\$0. 0143
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Philippines peso:

November 15, 1976-----	\$0. 1320
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November 16, 1976-----	0. 1320
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November 17, 1976-----	0. 1320
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November 18, 1976-----	0. 1320
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November 19, 1976-----	0. 1340
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Singapore dollar:

November 15, 1976-----	\$0. 4072
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November 16, 1976-----	0. 4070
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November 17, 1976-----	0. 4072
------------------------	---------

November 18, 1976-----	0. 4072
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November 19, 1976-----	0. 4073
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Thailand baht (tical):

November 15-19, 1976-----	\$0. 0490
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(LIQ-3)

G. S. SHREVE,
for JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

(T.D. 77-7)

Foreign Currencies—Certification of Rates

Rates of exchange certified to the Secretary of the Treasury by the
Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 14, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (19 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 76-293 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs

purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Mexico peso:

November 15, 1976.....	\$0. 0409
November 16, 1976.....	0. 0412
November 17, 1976.....	Holiday
November 18, 1976.....	0. 0411
November 19, 1976.....	0. 0411

(LIQ-3)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

(T.D. 77-8)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 21, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (19 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:

November 22, 1976.....	\$0. 2103
November 23, 1976.....	0. 2105
November 24, 1976.....	0. 2106
November 25, 1976.....	Holiday
November 26, 1976.....	0. 2095

Iran rial:

November 22, 1976.....	\$0. 0143
November 23, 1976.....	0. 0143
November 24, 1976.....	0. 0143
November 25, 1976.....	Holiday
November 26, 1976.....	0. 0140

Philippines peso:

November 22, 1976	\$0. 1340
November 23, 1976	0. 1340
November 24, 1976	0. 1340
November 25, 1976	Holiday
November 26, 1976	0. 1340

Singapore dollar:

November 22, 1976	\$0. 4074
November 23, 1976	0. 4075
November 24, 1976	0. 4072
November 25, 1976	Holiday
November 26, 1976	0. 4073

Thailand baht (tical):

November 22, 1976	\$0. 0490
November 23, 1976	0. 0490
November 24, 1976	0. 0490
November 25, 1976	Holiday
November 26, 1976	0. 0490

(LIQ-3)

G. S. SHREVE,
for JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

(T.D. 77-9)

Foreign Currencies—Certification of Rates

Rates of exchange certified to the Secretary of the Treasury by the
Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 14, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (19 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 76-293 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs

purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Mexico peso:

November 22, 1976.....	\$0. 0345
November 23, 1976.....	0. 0364
November 24, 1976.....	0. 0400
November 25, 1976.....	Holiday
November 26, 1976.....	0. 0417

(LIQ-3)

JOHN B. O'LOUGHLIN,
Director;
Duty Assessment Division.

(T.D. 77-10)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 21, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (19 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:

November 29, 1976.....	\$0. 2101
November 30, 1976.....	0. 2107
December 1, 1976.....	0. 2087
December 2, 1976.....	0. 2089
December 3, 1976.....	0. 2094

Iran rial:

November 29, 1976.....	\$0. 0140
November 30, 1976.....	0. 0140
December 1, 1976.....	0. 0140
December 2, 1976.....	0. 0140
December 3, 1976.....	0. 0142

Philippines peso:

November 29-December 3, 1976..... \$0. 1340

Singapore dollar:

November 29, 1976..... \$0. 4072

November 30, 1976..... 0. 4072

December 1, 1976..... 0. 4070

December 2, 1976..... 0. 4070

December 3, 1976..... 0. 4071

Thailand baht (tical):

November 29-December 3, 1976..... \$0. 0490

(LIQ-3)

G. S. SHREVE,
for JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

(T.D. 77-11)

Foreign Currencies—Certification of Rates

Rates of exchange certified to the Secretary of the Treasury by the
Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., December 14, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (19 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 76-293 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Australia dollar:

November 29, 1976..... \$1. 0150

November 30, 1976..... 1. 0099

December 1, 1976..... 1. 0087

December 2, 1976..... 1. 0095

December 3, 1976..... 1. 0056

Canada dollar:

November 29, 1976.....	\$0. 9767
November 30, 1976.....	0. 9658
December 1, 1976.....	0. 9667
December 2, 1976.....	0. 9722
December 3, 1976.....	0. 9747

Mexico peso:

November 29, 1976.....	\$0. 0415
November 30, 1976.....	0. 0440
December 1, 1976.....	0. 0465
December 2, 1976.....	0. 0455

New Zealand dollar:

November 29, 1976.....	\$0. 9050
November 30, 1976.....	0. 9013
December 1, 1976.....	0. 8999
December 2, 1976.....	0. 9035
December 3, 1976.....	0. 9017

(LIQ-3)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza
New York, N. Y. 10007

Chief Judge

Nils A. Boe

Judges

Paul P. Rao
Morgan Ford
Scovel Richardson
Frederick Landis

James L. Watson
Herbert N. Maletz
Bernard Newman
Edward D. Re

Senior Judges

Mary D. Alger
Samuel M. Rosenstein

Clerk

Joseph E. Lombardi

Customs Decision

(C.D. 4677)

ASSOCIATED METALS & MINERALS CORP. v. UNITED STATES

Fluorspar

CALCIUM FLUORIDE CONTENT—CONFLICTING LABORATORY TESTS

In a dispute as to whether the calcium fluoride content of imported fluorspar was above or below 97% the evidence offered by plaintiff was more persuasive in being more definite as to the sampling method used, and in relying on the results of more than one testing method in three independent laboratories to support its claim of calcium fluoride content in excess of 97%.

Court No. 68/67256

Port of New Orleans

[Judgment for plaintiff.]

(Decided December 9, 1976)

Rode & Qualey (Ellsworth F. Qualey and Peter Jay Baskin of counsel) for the plaintiff.

Rex E. Lee, Assistant Attorney General (*John N. Politis*, trial attorney), for the defendant.

WATSON, Judge: The correct classification of the shipment of fluorspar under dispute depends on whether or not it was more than 97% calcium fluoride by weight. The district director at the port of New Orleans found it to be less than 97% calcium fluoride and classified it under item 522.24 of the Tariff Schedules of the United States, dutiable at the rate of \$8.40 per ton. Plaintiff contends the shipment contained more than 97% calcium fluoride and should have been classified pursuant to item 522.21 and assessed with duty at the rate of \$2.10 per ton.

At the trial, both sides offered evidence based on laboratory tests of the calcium fluoride, those conducted in the customs laboratory showing less than 97%, those conducted in the laboratories used by plaintiff showing more than 97%. In weighing this evidence I found that plaintiff's proof was the more persuasive, sufficient initially to overcome the presumption of the correctness of the district director's decision and sufficient ultimately to withstand and surpass the evidence offered by defendant.

Deciding between conflicting laboratory reports obtained from the analysis of what is presumably the same substance might at first seem an impossible predicament. Nevertheless, although the scales of justice are not laboratory scales, fine and meaningful distinctions can still be made in the weighing of evidence.

In a number of respects, plaintiff's evidence impressed me as superior to that of defendant. It was notably stronger in its demonstration of the methodical care with which sample material was taken from the shipment in issue and transmitted for testing. It was impressively broad in its base, being founded on tests conducted in three independent laboratories. It was persuasive in its reliance on more than one method of testing and in the uniformity of the results. In addition, it was supported by meaningful evidence as to the existing course of business and the expectations of the parties regarding their fluorspar transactions. All this led me to find a preponderance of evidence on the plaintiff's side and a marked similarity to the circumstances

discussed by our appellate court in *Aluminum Company of America v. United States*, 60 CCPA 148, C.A.D. 1102, 477 F. 2d 1396 (1973).

Although defendant's proof was not without some strength, it was deficient on the subject of connection to the shipment at issue and less impressive in the scope and variety of its tests. I give less importance to what may have been the superiority of the preservation of underlying work notes by the defendant's chemists and the repetition of their tests than to the strong connection with the disputed shipment and uniformity of result of plaintiff's three independent laboratories. In this case I am weighing the conclusions reached by experts and would not resort to their working notes unless there was a dispute which only the underlying notes, rather than the results, could resolve.

For the above reasons I find the shipment at issue to have been composed of fluorspar with a calcium fluoride content over 97%.

Judgment will enter accordingly.

Decisions of the United States Customs Court *Abstracts* *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, December 13, 1976.

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

VERNON D. ACREE,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate		
P76/277	Landis, J. December 7, 1976	Rettinger Raincoat Mfg. Co., Inc.	65/668, etc.	Par. 216 15%	Par. 1558 8.5%			Sumitomo Shoji New York, Inc. v. U.S., (C.D. 4595, aff'd C.A.D. 1169)	New York Various synthetic rubber articles
P76/278	Rc, J. December 7, 1976	David E. Porter a/c Torsien Hallman Rac- ing, Inc.	72-4-06833	Item 705.50 25%	Item 735.05 9%			David E. Porter v. U.S. (C.D. 4641)	San Diego Gloves for use in sport of motocross racing

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate		
F76/279	Re, J. December 7, 1976	David E. Porter a/c Torgsten Hallman Racing	73-7-01872	Item 705.50 25%	Item 735.05 7.5%			David E. Porter v. U.S. (C.D. 4641)	San Diego Gloves for use in sport of motocross racing
F76/280	Re, J. December 7, 1976	J. T. Racing	75-8-02179	Item 705.50 25%	Item 735.05 7.5%			David E. Porter v. U.S. (C.D. 4641)	San Diego Gloves for use in sport of motocross racing
F76/281	Re, J. December 8, 1976	Ambassador Division, Divina Footwear, Inc.	75-5-01241	Item 700.35 8.5%	Item 700.26 17¢ per pair			Agreed statement of facts	Los Angeles/Long Beach Men's leather work shoes
F76/282	Re, J. December 8, 1976	New York Merchandise Co., Inc.	72-12-02550	Item 705.35 15%	Item 735.05 9%			David E. Porter v. U.S. (C.D. 4641)	San Diego Gloves for use in sport of motocross racing
F76/283	Re, J. December 8, 1976	David E. Porter	71-8-00905	Item 705.50 25% Item 705.70 34%	Item 735.05 10%			David E. Porter v. U.S. (C.D. 4641)	San Diego Gloves for use in sport of motocross racing
F76/284	Re, J. December 8, 1976	David E. Porter a/c Med- International, David E. Porter a/c Torgsten Hall- man Racing, Inc.	72-9-01942	Item 705.50 25%	Item 735.05 9%			David E. Porter v. U.S. (C.D. 4641)	San Diego Gloves for use in sport of motocross racing

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisal Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R76/129	Watson, J. December 6, 1976	Sandoz, Inc.	R65/19619, etc.	United States value	U.S. selling prices, less 1% cash discount de- termined by customs officer at time of ap- praisal; less 33.4% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of transpor- tation and insurance from place of ship- ment to place of de- livery in amounts determined by cus- toms officer at time of appraisal; di- vided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R76/130	Watson, J. December 6, 1976	Sandoz, Inc.	R69/821, etc.	United States value	U.S. selling prices, less 1% cash discount as determined by cus- toms officer at time of appraisement; less 28.9% representing profit and general ex- penses usually made in U.S. on sales of dye- stuffs of same class or kind; less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement, divid- ed by 1.36 or such other factor applied by customs officer, to allow for customs duties payable on imported dyes	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzonoid dyestuffs

Petition for Writ of Certiorari
Filed with Supreme Court

DENIED NOVEMBER 29, 1976

APPEAL 75-26.—United States *v.* The Carborundum Company.—
ABRASIVE FURNACE FERROSILICON—ALLOY IRON OR STEEL
POWDERS—FERROSILICON—TSUS.—C.D. 4584 reversed June 17,
1976. C.A.D. 1172. Supreme Court No. 77-382, October Term
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(TREAS. 552)



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